

1 Juanita R. Brooks (CA SBN 75934) brooks@fr.com  
2 Roger A. Denning (CA SBN 228998) denning@fr.com  
3 Frank J. Albert (CA SBN 247741) albert@fr.com  
4 Megan A. Chacon (CA SBN 304912) chacon@fr.com  
5 K. Nicole Williams (CA SBN 291900) nwilliams@fr.com  
6 Oliver J. Richards (CA SBN 310972) ojr@fr.com  
7 Jared A. Smith (CA SBN 306576) jasmith@fr.com  
FISH & RICHARDSON P.C.  
12390 El Camino Real, Suite 100  
San Diego, CA 92130  
Telephone: (858) 678-5070 / Fax: (858) 678-5099

8 Aamir Kazi (Admitted *Pro Hac Vice*) kazi@fr.com  
9 Alana C. Mannige (CA SBN 313341) mannige@fr.com  
FISH & RICHARDSON P.C.  
10 1180 Peachtree Street NE, 21st Floor  
Atlanta, GA 30309  
Telephone: (404) 892-5005 / Fax: (404) 892-5002

12 Attorneys for Plaintiff  
13 FINJAN, INC.

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

16 FINJAN, INC., a Delaware Corporation,

Case No. 5:17-cv-00072-BLF

17 Plaintiff,

**FINJAN INC.'S ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL ITS  
MOTION IN LIMINE NO. 4 TO  
PRECLUDE RELIANCE ON  
UNDISCLOSED NON-INFRINGEMENT  
THEORIES AND EXHIBIT**

18 v.

19 CISCO SYSTEMS, INC., a California  
20 Corporation,

Hon. Beth Labson Freeman

21 Defendant.

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1                   **I. INTRODUCTION**

2                   Plaintiff Finjan Inc.’s (“Finjan”), having reviewed and complied with this Court’s standing  
 3 order governing administrative motions to file material under seal and Civil Local Rule 79-5,  
 4 hereby moves the Court for permission to file under seal the following documents:

5 <b>ECF or Exh. 6                   No.</b>	7 <b>Document</b>	8 <b>Portion(s) to Seal</b>	9 <b>Reason(s) for Sealing</b>	
10	11 ECF No. 531	12 Finjan Inc.’s 13 Motion <i>In Limine</i> 14 No. 4 to Preclude 15 Reliance on 16 Undisclosed Non- 17 Infringement 18 Theories and 19 Exhibits	20 The highlighted 21 portions at page 1, 22 lines 8-9, 17-20, 22, 23 24 24-25; page 3, lines 25 1, 9-13, 27; page 4, 26 lines 2-4, 6, 13-14	27 The highlighted portions of 28 this document reflect information that Cisco has designated as Highly Confidential – Attorneys’ Eyes Only under the Protective Order.  <i>See Williams Decl., ¶ 3.</i>
29	30 Exhibit 7 to the 31 Omnibus 32 Declaration of 33 Megan A. 34 Chacon in 35 Support of 36 Finjan Inc.’s 37 Motions <i>In 38 Limine</i> Nos. 1- 39 5	40 Excerpts of the 41 08-14-2019 42 Rebuttal Expert 43 Report of Dr. 44 Patrick McDaniel	45 Entirety	46 This document reflects 47 information that Cisco has 48 designated as Highly 49 Confidential – Attorneys’ 50 Eyes Only under the 51 Protective Order.  <i>See Williams Decl., ¶ 4.</i>
52	53 Exhibit 8 to the 54 Omnibus 55 Declaration of 56 Megan A. 57 Chacon in 58 Support of 59 Finjan Inc.’s 60 Motions <i>In 61 Limine</i> Nos. 1- 62 5	63 Excerpts of the 64 08-14-2019 65 Rebuttal Expert 66 Report of Dr. 67 Kevin Almeroth	68 Entirety	69 This document reflects 70 information that Cisco has 71 designated as Highly 72 Confidential – Attorneys’ 73 Eyes Only under the 74 Protective Order.  <i>See Williams Decl., ¶ 5.</i>
75	76 Exhibit 9 to the 77 Omnibus 78 Declaration of 79 Megan A. 80 Chacon in 81 Support of 82 Finjan Inc.’s 83 Motions <i>In 84 Limine</i> Nos. 1- 85 5	86 Excerpts of the 87 08-14-2019 88 Rebuttal Expert 89 Report of Dr. 90 Atul Prakash	91 Entirety	92 This document reflects 93 information that Cisco has 94 designated as Highly 95 Confidential – Attorneys’ 96 Eyes Only under the 97 Protective Order.  <i>See Williams Decl., ¶ 6.</i>
98	99 Exhibit 10 to	100 Excerpts of	101 Entirety	102 This document reflects

1	the Omnibus Declaration of Megan A. Chacon in Support of Finjan Inc.'s Motions <i>In Limine</i> Nos. 1-5	Cisco's 04-18-2019 Third Supplemental Response to Finjan's 2 <sup>nd</sup> Set of Interrogatories (No. 6)		information that Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order.  <i>See</i> Williams Decl., ¶ 7.
6	Exhibit 11 to the Omnibus Declaration of Megan A. Chacon in Support of Finjan Inc.'s Motions <i>In Limine</i> Nos. 1-5	Appendix B7 to Finjan's 10-31-2017 Supplemental Infringement Contentions	Entirety	This document reflects information that Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order.  <i>See</i> Williams Decl., ¶ 8.
12	Exhibit 12 to the Omnibus Declaration of Megan A. Chacon in Support of Finjan Inc.'s Motions <i>In Limine</i> Nos. 1-5	Appendix B3 to Finjan's 10-31-2017 Supplemental Infringement Contentions	Entirety	This document reflects information that Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order.  <i>See</i> Williams Decl., ¶ 8.
18	Exhibit 13 to the Omnibus Declaration of Megan A. Chacon in Support of Finjan Inc.'s Motions <i>In Limine</i> Nos. 1-5	Appendix D1 to Finjan's 10-31-2017 Supplemental Infringement Contentions	Entirety	This document reflects information that Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order.  <i>See</i> Williams Decl., ¶ 8.
24	Exhibit 14 to the Omnibus Declaration of Megan A. Chacon in Support of Finjan Inc.'s Motions <i>In Limine</i> Nos. 1-5	Appendix A4 to Finjan's 11-30-2017 Amended Infringement Charts	Entirety	This document reflects information that Cisco has designated as Highly Confidential – Attorneys' Eyes Only under the Protective Order.  <i>See</i> Williams Decl., ¶ 8.

1	Exhibit 15 to the Omnibus Declaration of Megan A. Chacon in Support of Finjan Inc.’s Motions <i>In Limine</i> Nos. 1- 5	Appendix C3 to Finjan’s 11-30- 2017 Amended Infringement Charts	Entirety	This document reflects information that Cisco has designated as Highly Confidential – Attorneys’ Eyes Only under the Protective Order.  <i>See</i> Williams Decl., ¶ 8.
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Filed concurrently herewith and pursuant to Civ. L.R. 79-5(c) are the confidential versions of Plaintiff Finjan Inc.’s Motion *In Limine* No. 4 to Preclude Reliance on Undisclosed Non-Infringement Theories and Exhibits 7-15 to the Omnibus Declaration of Megan A. Chacon in Support of Plaintiff’s Motions *In Limine* Nos. 1-5 (“Omnibus Chacon Declaration”), as well as public redacted versions of the same.

## II. ARGUMENT

### A. Legal Standard

Under Fed. Rule Civ. P. 26(c)(1)(G), the Court may, in its discretion and for good cause, issue an order “requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way.” Similarly, in this Circuit, the Court may seal documents and information in the case of a dispositive motion if there are “compelling reasons” to do so, and where “good cause” exists in the case of non-dispositive motions. *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1095-1100 (9th Cir. 2016). A motion is considered “non-dispositive” when the motion is no more than “tangentially related” to the underlying cause of action. *Id.* at 1099. The “good cause” standard requires a “particularized showing” that “specific prejudice or harm will result” if the information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002) (internal quotation marks omitted). “Broad allegations of harm, unsubstantiated by specific examples of articulated reasoning” will not suffice. *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 476 (9th Cir. 1992). A request to seal material “must be narrowly tailored to seek sealing only of sealable material.” L.R. 79-5(b).

**B. Finjan’s Administrative Motion to Seal Is Supported by Good Cause and is Narrowly Tailored**

Good cause exists to file the documents in question under seal, as described in the Declaration of K. Nicole Williams In Support of Finjan Inc.’s Motion to File under Seal its Motion *In Limine* No. 4 to Preclude Reliance on Undisclosed Non-Infringement Theories and Exhibits accompanying this motion to seal (“Williams Decl.”) accompanying this motion to seal.

Finjan seeks to seal the portions of its Motion *in Limine* No. 4 at page 1, lines 8-9, 17-20, 22, 24-25; page 3, lines 1, 9-13, 27; page 4, lines 2-4, 6, 13-14 because these portions reflect information Cisco has designated as Highly Confidential – Attorneys’ Eyes Only under the Protective Order. Williams Decl. at ¶ 3.

Finjan seeks to seal Exhibit 7 to the Chacon Declaration in its entirety because it contains information Cisco has designated as Highly Confidential – Attorneys’ Eyes Only under the Protective Order. Williams Decl. at ¶ 4.

Finjan seeks to seal Exhibit 8 to the Chacon Declaration in its entirety because it contains information Cisco has designated as Highly Confidential – Attorneys’ Eyes Only under the Protective Order. Williams Decl. at ¶ 5.

Finjan seeks to seal Exhibit 9 to the Chacon Declaration in its entirety because it contains information Cisco has designated as Highly Confidential – Attorneys’ Eyes Only under the Protective Order. Williams Decl. at ¶ 6.

Finjan seeks to seal Exhibit 10 to the Chacon Declaration in its entirety because it contains information Cisco has designated as Highly Confidential – Attorneys’ Eyes Only under the Protective Order. Williams Decl. at ¶ 7.

Finjan seeks to seal Exhibit 11-15 to the Chacon Declaration in their entirety because they include excerpts and information from documents containing information Cisco has designated as

Finjan's request is narrowly tailored to seal only information that has been designated as confidential pursuant to the protective order entered in this case.

### III. CONCLUSION

For the foregoing reasons, Finjan respectfully requests that the Court grant its Administrative

1 Motion to File Documents Under Seal.

2 Dated: April 16, 2020

Respectfully Submitted,

3 By: /s/ K. Nicole Williams

4 Juanita R. Brooks (CA SBN 75934) brooks@fr.com

5 Roger A. Denning (CA SBN 228998)

denning@fr.com

6 Frank J. Albert (CA SBN 247741) albert@fr.com

7 Megan A. Chacon (CA SBN 304912)

chacon@fr.com

8 K. Nicole Williams (CA SBN 291900)

nwilliams@fr.com

9 Oliver J. Richards (CA SBN 310972) ojr@fr.com

Jared A. Smith (CA SBN 306576) jasmith@fr.com

FISH & RICHARDSON P.C.

10 12390 El Camino Real, Suite 100

11 San Diego, CA 92130

12 Phone: (858) 678-5070 / Fax: (858) 678-5099

13 Aamir Kazi (Admitted *Pro Hac Vice*) kazi@fr.com

14 Alana C. Mannige (CA SBN 313341)

mannige@fr.com FISH & RICHARDSON P.C.

15 1180 Peachtree Street NE, 21st Floor

Atlanta, GA 30309

16 Phone: (404) 892-5005 / Fax: (404) 892-5002

17 Attorneys for Plaintiff FINJAN, INC.

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1 **CERTIFICATE OF SERVICE**

2 The undersigned hereby certifies that a true and correct copy of the above and foregoing  
3 document has been served on April 16, 2020 to all counsel of record who are deemed to have  
4 consented to electronic service via the Court's CM/ECF system. Any other counsel of record will  
5 be served by electronic mail and regular mail.

6 /s/ K. Nicole Williams  
7 K. Nicole Williams  
8 [nwilliams@fr.com](mailto:nwilliams@fr.com)

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